

REMARKS/ARGUMENTS

Claims 41-58 and 63 were previously pending in this application. The Office Action states that claims 60-62 were also previously pending, but this is incorrect, as Claims 60-62 were canceled previously by the Applicant (see **Paper No. 6**).

Claims 41-58 and 63 stand rejected in a non-final Office Action under 35 U.S.C. § 135(b) as being made more than one year from the date on which the U.S. Patent No. 5, 792,603 (Huddart et al) was granted. On January 26, 2006, a telephone conference between the Examiner and the Applicant's attorneys was conducted. A subsection below, called **Interview Summary**, herein sets forth the substance of the telephonic conference. In response to the above-identified Office Action, Applicant respectfully seeks reconsideration of the application in view of the remarks set forth below.

Request for Consideration of Supplemental Information Disclosure Statement

On July 19, 2004, the Applicant filed a Supplemental Information Disclosure Statement (IDS), with an accompanying PTO-1449 form. Applicant respectfully requests consideration of this Supplemental IDS, and asks that the Examiner initial and sign the accompanying PTO-1449 form.

Interview Summary

On or about January 26, 2006, at approximately 10:30 a.m., a telephone conference was conducted regarding the pending Office Action. Examiner Jeffrey F. Harold and Applicant's attorneys (Thomas B. Haverstock, Reg. No. 32,571 and Myrna M. Schelling, Reg. No. 54,426) were present during the telephone conference. All pending claims (Claims 41-58 and 63) were discussed. Also, the rejection under 35 U.S.C. §135(b) as set forth in the pending Office Action was discussed at length. Specifically, within the Office Action, it is stated that:

In the instant application the claims were copied after the one-year issue date of U.S. Patent 5,792,603, thus applicant is basing the claim of interference on the parent application 08/625,398, for which a continuation was filed on April 5, 1999. The claims of application 08/625,398 have been reviewed and it does not appear that applicant has a claim for "substantially the same subject matter" as at least one of the patented claims prior to the expiration of the one-year period.

Hence applicant is required to explain how the requirement of "substantially the same subject matter" i

Office Action mailed January 11, 2006, page 2. During the telephone conference, the undersigned traversed the 35 U.S.C. §135(b) rejection and requested the rejection to be

withdrawn.

The undersigned stated that the 35 U.S.C. §135(b) rejection in the pending Office Action had been previously made by another examiner (Examiner Saint-Surin) in a previous office action. See Paper No. 5, entitled Office Action mailed July 20, 1999. In response to Examiner Saint-Surin's 35 U.S.C. §135(b) rejection, the Applicant mailed a response on August 20, 1999, setting forth an explanation how the requirement of "substantially the same subject matter" is met by the parent application (08/625,398). See Paper No. 6, entitled Response to Office Action Mailed July 20, 1999, pages 23-27. In response to the Applicant's response mailed August 20, 1999, Examiner Saint-Surin mailed an office action stating that all claims were allowable and that the *ex parte* prosecution was suspended for six months, thereby indicating that he had withdrawn his 35 U.S.C. §135(b) rejection. See Paper No. 7, entitled Office Action mailed November 8, 1999.

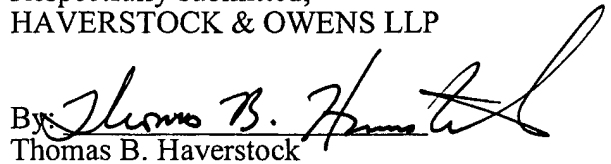
Upon hearing these arguments made by the undersigned and upon reviewing the papers mentioned herein, Examiner Harold withdrew his 35 U.S.C. §135(b) rejection and indicated that an interference would be initiated. Also, Examiner Harold stated that prosecution would be suspended for approximately 6 months.

Conclusion

For the reasons given above, the Applicant respectfully submits that the Claims 41-58 and 63 are in a condition for allowance, and an interference should be initiated between the present application and U.S. Patent No. 5,729,603. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 4-6-06

By: 
Thomas B. Haverstock
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CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.
Date: 4/6/06 By: TLH